



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,237	03/08/2001	Christopher Keith	0505-4011	7700

24259 7590 08/24/2005

BRENDA POMERANCE
LAW OFFICE OF BRENDA POMERANCE
260 WEST 52 STREET SUITE 27B
NEW YORK, NY 10019

EXAMINER

GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
----------	--------------

3628

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,237

Applicant(s)

KEITH, CHRISTOPHER

Examiner

Clement B. Graham

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nieboer et al (Hereinafter Nieboer US Patent No 6, 418, 419).

As per claims 1-2, Nieboer discloses a method of facilitating trading, comprising: automatically via a computer sending a trial order ("i. e, conditional order ") to a market.(see column 2 lines 5-67) and automatically via a computer receiving a report ("i. e, displaying information on each order") indicating that the trial order would have been paired if it had been a regular order. (Note abstract see column 4 lines 13-21 and column 3 lines 59-67 and column 4 lines 1-30).

Nieboer fail to explicitly teach wherein a trial order is for discovery of market depth at a price and is not an order to buy or sell shares.

However Nieboer teaches conditional orders (see column 2 lines 5-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that Nieboer teachings of conditional order when executed would have been able to perform inquires of market debt at a price.

As per claim 3, Nieboer discloses, wherein the automatically sending and receiving are performed by a trading process. (see column 3 lines 59-67 and column 4 lines 1-30).

As per claim 4, 8, 10-11, Nieboer discloses a method of facilitating trading, comprising: automatically via a computer receiving a trial order, automatically via a computer entering the trial order into an order file. ("i. e, conditional order "see column 2 lines 5-67") and automatically reporting ("i. e, displaying information on each order") when the trial order would have been paired had it been a regular order. (Note abstract see column 4 lines 13-21 and column 3 lines 59-67 and column 4 lines 1-30).

Art Unit: 3628

Nieboer fail to explicitly teach wherein a trial order is for discovery of market depth at a price and is not an order to buy or sell shares.

However Nieboer teaches conditional orders (see column 2 lines 5-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that Nieboer teachings of conditional order when executed would have been able to perform inquiries of market depth at a price.

As per claim 5, Nieboer discloses, further comprising selecting the trial order for pairing with an active side order without affecting the pairing priority of other orders in the order file. (see column 4 lines 1-30).

As per claim 6, Nieboer discloses, wherein the automatically reporting includes sending a pairing report for zero shares to a source of the trial order. (see column 4 lines 1-30 and note abstract see column 4 lines 13-21 and column 3 lines 59-67 and column 4 lines 1-30).

As per claim 7, Nieboer discloses, wherein the pairing report includes the price at which the trial order would have been paired had it been a regular order. (see column 1 lines 35-40 and note abstract see column 4 lines 13-21 and column 3 lines 59-67 and column 4 lines 1-30).

As per claim 9, Nieboer discloses automatically removing the trial order from the order file after reporting when it would have been paired. (see column 1 lines 35-40 and note abstract see column 4 lines 13-21 and column 3 lines 59-67 and column 4 lines 1-30).

Conclusion

3. Applicant's arguments filed on 11/26/2004 has been considered but they are moot in view of new grounds of rejections.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3628

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

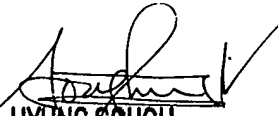
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantzy Ponvil can be reached on 703-305-9779. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

August 8, 2005


HYUNG SOUH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600